

Is Cable Franchise Renewal A Problem For Your Municipality?

Find Out What Your Neighbors Said.

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On November 17, 1994,* the Office of Cable Television hosted the League's Cable Television Session. In preparing for the Session, the Office sent a survey to each municipality.

The most important thing the Office discovered from the responses was that many municipalities had or were having difficulties with the franchise renewal process. It was also evident that many municipalities were not aware of the services that the Office provides. Of 142 surveys received, 66 municipalities were unaware of the Office's Municipal Assistance Program (MAP) or said they never requested assistance from the Office. However, 73 municipalities responded that the Office was helpful with their inquiries.

Most of the other issues raised by the survey focus on the franchise renewal process. The following are some of the concerns. The Office has also provided recommendations on how to handle these issues:

1. Very often municipalities want to meet with the Office staff to discuss the franchise renewal process.

The Office's Municipal Assistance Staff holds workshop meetings upon request by the municipality. The meetings, held in Newark, are to assist municipalities starting out in the franchise renewal process. Staff provides an overview of the entire franchising process.

2. Most municipalities which submit proposed municipal consent ordinances found the Office's comments helpful.

This may be the most important assistance the Office can offer to your municipality and is required by N.J.A.C. 14:18-11.18. The Office should review the ordinance prior to its introduction for compliance with state and federal law and will provide comments to the municipality.

If you have any questions regarding when or why your municipality should send in your ordinance, please call the Office.

3. 30 percent of municipalities specifically requested information regarding what municipalities can request of companies and what has been negotiated by other municipalities.

There are a number of ways to accomplish this:

- a) Talk to neighboring municipalities and find out what they have negotiated.
 - b) Ask the cable company to provide your municipality with other ordinances they have negotiated.
 - c) Request specific ordinances from the Office. The Office will supply ordinances upon request. You must request, in writing, the specific ordinances you wish to receive. The Office will also provide a copy of the Certificate of Approval issued by the Board of Public Utilities (Board). The reason for sending the Certificate is to show if, and where, the Board would take exception to provisions within the ordinance.
4. 40 percent of municipalities responding said that the most difficult part of franchise renewal was negotiations. Many municipalities said that the cable companies had an upper hand as they had been through the process over and over.

It needn't be so. Our advice is to contact your cable company, develop a rapport with the company before it is time to renew. If your municipality is already in renewal, contact the company anyway. There is no reason that the renewal process has to be adversarial. With a little research and a good relationship with the cable company, the renewal process can be much less troublesome.

5. Many municipalities wanted information regarding negotiating a franchise in a field undergoing rapid change.

Our advice is to talk to your cable company, talk to the Office, do some reading, and make yourself familiar with what is going on. You do not need to be an expert, but it helps if you are able to hold your own when it comes time for negotiations.

6. Some municipalities said that they wanted to improve communications between the municipality and the company in order to work together for the community.

As noted above, try to work with your cable company in order to develop a relationship by which you can work together for the community. After all, isn't that why municipalities spend so much time and energy on cable renewal?

7. Municipalities also expressed concern over the length of the franchise. Most cable operators insist on a minimum of a 10-year franchise and a lot of municipalities are reluctant to give that type of renewal.

There is not an easy answer to this key term of the franchise. On the one hand, it is very difficult to deny a cable television franchise renewal and therefore, the cable operator is almost guaranteed a subsequent renewal but on the other hand, just because the municipality grants a 10- or 15-year franchise does not mean it is locked into an exclusive contract. Exclusivity is prohibited. Municipalities are free to consider granting additional cable TV franchises, although they cannot do so simply to replace the existing cable company.

Each municipality needs to ask:

- a) Why does your municipality feel that a shorter time frame is needed? And
- b) Why does the cable company need a minimum 10-year term?

- 8. Many municipalities also stated that they wanted to see data on renewal lengths around the state.

While this information may be statistically helpful, what may be more important to the municipality is trying to discover whether the company's franchise proposal (Renewal Municipal Consent Application) will meet the needs of the community now and in the future. The Office can, however, provide a limited profile of franchise lengths.

Many municipalities requested assistance in the following other areas:

- 1. Obtaining complaint statistics. The Office can provide a statistical compilation of the complaints received by the Office. Under most circumstances, the Office would provide a three-year compilation. Please contact us for further information.
- 2. Reviewing issues dealing with public, educational and governmental (PEG) access and other franchise compliance issues. If you would like to request information regarding these matters, please contact us by phone or by letter. If you send a letter to the Office, please be specific about what you are requesting.

In closing, our advice to each municipality, especially those that are in renewal, is as follows:

- 1. Contact your cable company. Develop a relationship.
- 2. Contact the Office. Ask questions. If you can, come to the Office for a workshop. The Office is here to assist your municipality.
- 3. Contact other municipalities. Find out how negotiations have gone with them.
- 4. Get public input. The more input your municipality gets, the better the agreement you reach with the cable company will suit the needs of the community.

If you would like to contact the Office's Municipal Assistance Staff, please call [(973) 648-2670] or write to us at Office of Cable Television, Two Gateway Center, Newark, New Jersey, 07102.

* *Author's note: This article appeared in the magazine New Jersey Municipalities in March 1995. While it is almost five years old, it still contains good advice. It appears here with written permission of the New Jersey State League of Municipalities. -Karen A. Marlowe, Coordinator, State and Local Planning.*